

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District of the Southern District of New York	
Name (under which you were convicted): David Norman AKA Jim Norman		Docket or Case No.: 07-cr-961 (S.D.N.Y.)	
Place of Confinement: FCI Petersburg Low, Petersburg, VA		Prisoner No.: 65940-054	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V. David Norman aka Jim Norman	

**MOTION**

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

United States District Court for the Southern District of New York  
500 Pearl Street  
New York, NY 10007

16CV3053

(b) Criminal docket or case number (if you know): 07-cr-961 (S.D.N.Y.)

2. (a) Date of the judgment of conviction (if you know): 7/15/2013

(b) Date of sentencing: 7/15/2013

3. Length of sentence: 240 months

4. Nature of crime (all counts):

Conspiracy to commit wire fraud (in violation of 18 U.S.C. s. 1343).

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☒

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☒

No ☐

8. Did you appeal from the judgment of conviction?

Yes ☒

No ☐

## 9. If you did appeal, answer the following:

(a) Name of court: United States Court of Appeals for the Second Circuit(b) Docket or case number (if you know): 13-2840(c) Result: Appeal denied.(d) Date of result (if you know): 1/9/2015(e) Citation to the case (if you know): 776 F.3d 67 (2d Cir. Jan. 9, 2015)

(f) Grounds raised:

Whether District Court could credit simultaneously credit and discredit defendant's testimony for purpose of increasing defendant's sentence under Sentencing Guidelines;

Whether the evidence was sufficient to support the District Court's amount of loss finding;

Whether the evidence was sufficient to support the District Court's number of victims finding;

Whether the evidence was sufficient to support the District Court's finding that the defendant was an organizer or leader of the conspiracy;

Whether the evidence was sufficient to support a finding that the defendant committed perjury; and

Whether the defendant's 240-month sentence was substantively unreasonable.

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

(1) Docket or case number (if you know): 14-9262(2) Result: Petition for writ of certiorari denied.(3) Date of result (if you know): 5/8/2015(4) Citation to the case (if you know): 2015 WL 1607367 (May 18, 2015)

(5) Grounds raised:

Whether a criminal defendant's right to testify on his own behalf was violated when a district court credits his trial testimony solely when finding facts increasing his Sentencing Guidelines range and simultaneously discredits the remainder of his testimony in order to apply an obstruction of justice enhancement; and

Whether a statutory maximum 20-year sentence imposed on a non-violent first time offender following extensive fact-finding by the sentencing judge on Sentencing Guidelines factors not presented to the jury was substantively unreasonable.

## 10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

## 11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket of case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

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(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

- 
12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE:** ATTORNEY INEFFECTIVE FOR NOT EXPLORING PLEA BARGAIN.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

IT WOULD HAVE BEEN A STAGE TO PRESENT INFORMATION THAT MAY NOT HAVE BEEN A CHALLENGE TO THE PROSECUTOR'S APPROACH OF "WINNING" AND MORE SO OF UNDERSTANDING, AS A FACT, ONE PROSECUTOR DID RESIGN, AN UNUSUAL FACT.  
ATTORNEY INEFFECTIVE FOR NOT SEEKING A CONTINUANCE.

**(b) Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why: THE COURT APPOINTED ATTORNEYS ALWAYS DID AS THEY SAW FIT, THIS AT THE TRIAL AND AFTER DISCHARGING HIM, SO DID HIS REPLACEMENT AT THE APPEAL.

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND TWO:** A PRIVATE INVESTIGATOR WHO HAD TRAVELED TO TORONTO THREE TIMES AND RETURNED EACH TIME WITH CORROBORATION OF MY TRUTHS  
 (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):  
WAS ILL AT THE TRIAL DATE. THE DEFENCE ATTORNEY AND THE JUDGE SHOULD HAVE DELAYED THE TRIAL.

**(b) Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

FOR THE SAME REASON AS STATED IN GROUND ONE.

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

GROUND THREE: THE JUDGE ABUSED ANY DISCRETION IN DENYING, FROM THE SIDE BAR, A UNITED STATES TREASURY DOCUMENT.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THIS DOCUMENT SHOWED FUNDS CLOSE TO ONE HUNDRED AND SEVENTY MILLION, AS WELL AS THE, AT THE TIME, CURRENT BALANCE IN THE BILLIONS. IT SHOWED WHY THESE FUNDS WERE NEEDING TO BE EXTRACTED FROM AN AMERICAN BASED COUP OF THE ACCOUNT. ASSISTANCE IN THE FORM OF \$1.2m WAS LOGICAL TO RELEASE THIS KIND OF AMMOUNT.

IT DID NOT IN ANY WAY ASSIST MY TRUTH TO LET THE JURY SEE THIS, AND THE PROSECUTORS STANCE WAS THAT MY FUNDS WERE A FABRICATION. THE U.S.T DOCUMENT WAS PROOF OF THE OPPOSITE AND WAS THE BASE CORE OF MY TRUTH.

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

FOR THE SAME REASON AS GROUND ONE.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: THE JUDGE ABUSED ANY DISCRETION IN NOT ALLOWING MY CHARTERED ACCOUNTANTS EVIDENCE-TESTIMONY.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I HAD ASKED FOR MY ACCOUNTANT OF 40 PLUS YEARS TO TESTIFY, FROM WHAT I RECALL HE WAS INTIMIDATED BY BEING TOLD THAT THE COURT "WINS" AND HIS CHARTERED CANADIAN LICENSE WOULD BE TARNISHED. SO, HE SUPPLIED INFORMATION TO BE SUBMITTED. IT WAS NOT. (CONTINUED) IT WAS NOT AS PER THE DETAIL OF GROUND TWO.  
ON PAGE 13.

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

FOR THE REASON IN GROUNDS ONE ETC.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_



(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:
- (a) At the preliminary hearing:  
None
- (b) At the arraignment and plea:  
Deveraux Cannick
- (c) At the trial:  
Deveraux Cannick
- (d) At sentencing:  
Megan Wolfe Benett
- (e) On appeal:  
Megan Wolfe Benett
- (f) In any post-conviction proceeding:
- (g) On appeal from any ruling against you in a post-conviction proceeding:
16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒
17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:
- (b) Give the date the other sentence was imposed: \_\_\_\_\_
- (c) Give the length of the other sentence: \_\_\_\_\_
- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐
18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

GROUND FIVE: ATTORNEY ~~IN~~ EFFECTIVE FOR ALLOWING THE JUDGE TO RULE IMPROPERLY WITHOUT OBJECTION TO THE U.S.T DOCUMENT. AND NOT BROUGHT UP IN THE APPEAL

GROUND SIX: ATTORNEY INEFFECTIVE IN NOT OBJECTING TO THE CANADIAN ACCOUNTANT NOT BEING ALLOWED TO TESTIFY. AND, NOT BROUGHT UP IN APPEAL.

GROUND SEVEN: TRIAL ATTORNEY WAS INEFFECTIVE FOR TOTALLY FABRICATING A STORY TO THE COURT WHICH WAS FALSE, AND MY TRUTH WAS NOT PROPERLY QUESTIONED WHEN I TOOK THE STAND. THIS PREJUDGED ME WITH THE JURY FOR NOT KNOWING THE TRUTH.

GROUND EIGHT: THE APPELLATE ATTORNEY WAS INEFFECTIVE FOR NOT RAISING INEFFECTIVE TRIAL ATTORNEY, BECAUSE THE TRIAL TRANSCRIPT RECORD IS CLEARLY SUFFICIENT TO ESTABLISH INEFFECTIVE ASSISTANCE OF COUNCIL OR DIRECT APPEAL.

GROUND NINE: APPEALATE COUNCIL FAILED TO APPEAL ANY ISSUE EXCEPT FOR SENTENCING.

GROUND TEN: TRIAL ATTORNEY AND APPELATE ATTORNEY WERE BOTH INEFFECTIVE FOR ALLOWING PROSECUTION TO PROSECUTE ME ON A "STATUTE" 18 USC 3231 WHICH WAS NEVER SIGNED BY H.S. TRUMAN INTO LAW ON JUNE 25<sup>TH</sup> 1948. AN "EXHIBIT" CLEARLY SHOWS THE SIGNATURE PAGE OF HARRY S. TRUMAN'S SIGNATURE; AND 18 USC 3231 WAS NOT SIGNED INTO LAW. I AM INNOCENT AND A CANADIAN CITIZEN, CONSPIRACY IS NOT IN OUR LAW.

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of -

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

GROUND ELEVEN:

I WAS EXTRADITED IN VIOLATION OF US CANADIAN TREATY.

~~PLEASE SEND A FILE STAMPED COPY OF THIS PETITION.~~

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Therefore, movant asks that the Court grant the following relief: APPOINTMENT OF COMPETENT COUNCIL

VACATE - DISMISS INDICTMENT - ORDER IMMEDIATE RELEASE  
or any other relief to which movant may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on \_\_\_\_\_  
(month, date, year)

Executed (signed) on 5/4/16 (date)

David Norman  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

David Norman

David Norman



DAVID NORMAN,  
FEDERAL CORRECTION COMPLEX [LOW]  
POST OFFICE BOX 1000  
PETERSBURG, VA  
23804  
U.S.A



*Criminal  
Detective*

65940-054  
Us D Crt Southern Dis Ny  
500 Pearl ST  
NEW YORK, NY 10007  
United States

USMP3  
SDNY

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